

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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TABITHA NEAL,

Plaintiff,

v.

No. 12-2167-JDT-dkv

PARKVIEW APARTMENTS, et al.,

Defendants.

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REPORT AND RECOMMENDATION FOR SUA SPONTE DISMISSAL

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On February 29, 2012, Plaintiff Tabitha Neal, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, along with a motion seeking leave to proceed *in forma pauperis* (Docket Entries ("D.E") 1 and 2). By order dated February 29, 2012, the motion to proceed *in forma pauperis* was granted.

On April 16, 2013, mail addressed to Tabitha Neal, to her address on file was returned undeliverable marked "DECEASED." According to the Commercial Appeal obituary dated September 14, 2012, Tabitha Neal, age 39, died on September 11, 2012.

By order dated May 30, 2013, in accordance with Rule 25 of the Federal Rules of Civil Procedure, a suggestion of death of the plaintiff, Tabitha Neal, was filed, and the court ordered a proper party be substituted within 90 days or the case would be dismissed. Ninety days has expired, and no party was substituted.

Accordingly, it is recommended that this case be dismissed pursuant to Rule 41(b) for failure to prosecute or comply with a court order.

Respectfully submitted, this 6th day of September, 2013.

s/Diane K. Vescovo  
DIANE K. VESCOVO  
UNITED STATES MAGISTRATE JUDGE

NOTICE

Within fourteen (14) days after being served with a copy of this report and recommended disposition, a party may serve and file written objections to the proposed findings and recommendations. A party may respond to another party's objections within fourteen (14) days after being served with a copy. FED. R. CIV. P. 72(b)(2). Failure to file objections within fourteen (14) days may constitute a waiver of objections, exceptions, and further appeal.